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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,031	10/05/2001	Friedrich Mueller		3734

7590 11/03/2004
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EXAMINER

DEAK, LESLIE R

ART UNIT PAPER NUMBER

3762

DATE MAILED: 11/03/2004

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/971,031

Filing Date: October 05, 2001

Appellant(s): MUELLER ET AL.

Leslie Deak
For Appellant

EXAMINER'S ANSWER

MAILED
NOV 03 2004
GROUP 3700

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the issues in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Prior Art of Record

6,551,266

Davis

4-2003

US Pub 2003/0154108 to Fletcher-Haynes et al. 14 August 2005.

(9) Grounds of Rejection

Claims 1-7 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 13 February 2004, and replicated below.

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Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,551,266 to Davis, in view of US Pub. 2003/0154108 to Fletcher-Hayes et al. Davis discloses a therapeutic apheresis system, which is an extracorporeal blood treatment machine. The device includes a computerized data management system that includes a system for coordinating, managing, directing, entering, accessing, and analyzing all aspects of remote and local apheresis systems on the network. The device has a CPU and a storage device, as well as all the associated software required to manage and control the system over an Internet platform (see columns 19-21). With that disclosure, Davis indicates that the system incorporates all software and hardware required to establish and maintain an Internet connection. Using the Internet as a communication tool is an obvious solution to communications problems, since the Internet provides a common language that various machines on a network can use to communicate with one another, as taught by Fletcher-Hayes see paragraphs 0204-0206). The communication system used in Fletcher-Hayes' extracorporeal blood treatment system specifically discloses a web interface that allows communication between a computer/database system and various other computer systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the extracorporeal treatment device and computerized data management system disclosed by Davis with the internet communications software disclosed by Fletcher-Hayes in order to provide a means of communication that can be decoded by various machines on the network, as taught by Hayes. Furthermore, it would have been obvious to combine the communications hardware and software in an integrated unit, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. See MPEP 2144.04.

With regard to claims 2-7 regarding the operation of the ECB station and communication system, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. As such, the processes claimed by applicant do not add patentable weight to the independent claim.

(10) Response to Argument

Applicant argues that the prior art of record does not disclose or suggest that communication between the user interface and the treatment unit is effected through an internal browser, as claimed. Examiner maintains that such communication is both disclosed and suggested by Davis and Fletcher-Haynes, who use web browsers to

control and transfer information between treatment systems and data management machines.

With regard to claim 1, Davis discloses a therapeutic apheresis system, which is an extracorporeal blood treatment machine. The device includes a computerized data management system that includes a system for coordinating, managing, directing, entering, accessing, and analyzing all aspects of remote and local apheresis systems on the network. The device has a CPU and a storage device, as well as all the associated software required to manage and control the system over an Internet platform (see columns 19-21). With that disclosure, Davis indicates that the system incorporates all software and hardware required to establish and maintain an Internet connection. Using the Internet as a communication tool is an obvious solution to communications problems, since the Internet provides a common language that various machines on a network can use to communicate with one another, as taught by Fletcher-Haynes (see paragraphs 0204-0206).

The communication system used in Fletcher-Haynes' extracorporeal blood treatment system specifically discloses a web interface that allows communication between a computer/database system and various other computer systems. Furthermore, Fletcher-Haynes discloses that the operator may control operating parameters through the apheresis assembly itself, indicating that software that controls the user interface may be located on the apheresis assembly or the network devices (see paragraph 0064).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the extracorporeal treatment device and computerized data management system disclosed by Davis with the internet communications software disclosed by Fletcher-Haynes in order to provide a means of communication that can be decoded by various machines on the network, as taught by Fletcher-Haynes. Furthermore, it would have been obvious to combine the communications hardware and software in an integrated unit, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. See MPEP 2144.04.

With regard to claims 2-7, applicant recites only the intended use of the claimed device. It is the position of the examiner that the Fletcher-Haynes device is capable of storing treatment parameters, transferring patient and treatment data, varying operating parameters, or otherwise performing the operations claimed by applicant in claims 2-7.

Applicant does not specifically point to a feature of the instantly claimed device that renders it patentable over the prior art of record. The arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.


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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Lrd 
November 1, 2004

Conferees
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